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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,368	08/13/2003	Michael V. Chobotov	021630-000810US	8463

23869 7590 02/08/2007  
HOFFMANN & BARON, LLP  
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SYOSSET, NY 11791

EXAMINER
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GILBERT, SAMUEL G

ART UNIT	PAPER NUMBER
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3735

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/640,368

Applicant(s)

CHOBOTOV ET AL

Examiner

Samuel G. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38-54, 62 and 63 is/are pending in the application.
- 4a) Of the above claim(s) 40, 44, 46, 48, 52 and 54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38, 39, 41-43, 45, 47, 49-51, 53, 62 and 63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                    |                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                               | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/16/2004</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of the species of I(b) and II(a), claims 38, 39, 41-43, 45, 47--51, 53, 62 and 63 in the reply filed on 11/20/2006 is acknowledged.

Claims 40, 44, 46, 48, 52 and 54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/20/2006. The applicant listed claim 48 as being directed to the elected embodiment and then labeled the claim "withdrawn". It is the examiner's position that claim 48 is directed to I(a) and therefore should be withdrawn and therefore will not be considered. Further the applicant lists claims 48 and 51 as generic. The examiner disagrees and believes that both claims 48 and 51 are not generic.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 62, 63, 47, 49, 50, 51 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 62 - in line 6, "the transversely oriented member" lacks antecedent basis.

Claim 63 - it is unclear if "a transversely oriented member" is the same as set forth in claim 62.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 38, 39, 41-43, 45, 47, 49, 50, 51, 53, 62 and 63 are rejected under 35 U.S.C. 102(e) as being anticipated by Davila et al (6,245,100).

Claim 38 - it is the examiner's position that cuffs -73- and -75- are flaps, at least a portion of stent -60- is transversely oriented with respect to the flexible graft member -70-. The flaps are folded over the end portions of stent -60- forming a loop and the flap is secured by applying heat and pressure, column 10 line 2.

Claim 39 - as shown in figure 7 the flexible material is secured to itself to form a single layer.

Claim 41 - the examiner is considering stent -60- to be a flexible material to which the flap is secured.

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Claim 42 the flexible layer is expanded PTFE, column 8 lines 43-65.

Claim 43 - the examiner is taking the heat and pressure to be thermomechanical compaction.

Claim 45 - the examiner is taking the heating as "sintering".

Claims 62 and 63 - it is the examiner's position that cuffs -73- and -75- are flaps, at least a portion of stent -60-, a member, is transversely oriented with respect to the flexible graft member -70-. The flaps are folded over the end portions of stent -60- forming a loop and the flap is secured by applying heat and pressure, column 10 line 2.

Claim 47 - as shown in figure 7 the flexible material is secured to itself to form a single layer.

Claim 49 - the examiner is considering stent -60- to be a flexible material to which the flap is secured.

Claim 50 the flexible layer is expanded PTFE, column 8 lines 43-65.

Claim 51 - the examiner is taking the heat and pressure to be thermomechanical compaction.

Claim 53 - the examiner is taking the heating as "sintering".

### ***Conclusion***

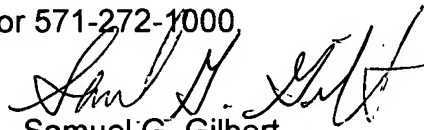
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 6,391,052 and 6,524,336 both teach cuffed(flap) structure as claimed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Samuel G. Gilbert  
Primary Examiner  
Art Unit 3735

sgg